

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 09/801,695

REMARKS

This Amendment, submitted in response to the Office Action dated June 4, 2003, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 2-16 remain pending in the application. Claims 2-7 and 15-16 remain allowable. With regard to the rejected claims, claim 8 has been rejected under 35 U.S.C. 102(e) as being anticipated by Hirata. Claims 9-10 and 13-14 have been rejected under 35 U.S.C. 102(e) as being anticipated by Fukunaga (U.S.P.6,195,373, assigned to Fuji Photo Film Co. Ltd.). Claims 9 and 11-12 have been rejected under 35 U.S.C. 103 as being unpatentable over Fukunaga in view of Asano (U.S.P.6,285,695, assigned to Fuji Photo Film Co. Ltd.). Applicant submits the following arguments in traversal of the prior art rejections.

Applicant's invention relates to a semiconductor laser that is operable in a fundamental transverse mode. Detailed descriptions of the background and exemplary embodiment of the invention are set forth in the August 12, 2002 Amendment at page 8. Applicant refers the Examiner to these descriptions.

The Examiner continues to maintain that Hirata teaches each feature of claim 8. In response to previously submitted arguments, the Examiner contends that the operation of a single transverse mode is not contemplated by the claims or specification. Regardless, independent claim 8 does clearly recite operation in a fundamental transverse mode, which is further supported by example in the specification at pages 5-6. By contrast, Hirata operates in a multiple longitudinal mode. See col. 1, lines 49-67. The Examiner has not indicated how fundamental transverse operation is discussed. Therefore, claim 8 is patentable for at least this reason.

Turning the anticipation rejection over the newly cited Fukunaga patent, the rejection of claims 9-10 and 13-14 appear to be reasonable. Therefore, Applicant has amended claim 9 to describe an upper cladding layer disposed at both edge portions in the longitudinal direction of the laser structure. Applicant would point out that Figs. 3A-3F of Fukunaga etch a cladding layer so that it is not disposed at end portions of the laser but only exist in a central portion of the structure. Therefore, claim 9 and its dependent claims 10 and 13-14 are patentable for at least these reasons.

With regard to the obviousness rejection of claims 11-12, Applicant notes that each of the applied Fukunaga and Asano references is commonly assigned with the present application. This is demonstrated by the Notices of Assignment recorded at Reel 9630, Frame 592 and Reel 9755, Frame 925, respectively. Therefore, under revised 35 U.S.C. 103, the rejection cannot be maintained. Applicant attaches documentation indicating the common assignment information for Fukunaga and Asano. Applicant further amends claim 11 in independent form.

In view of the above, Applicant submits that claims 2-16 are in condition for allowance. Therefore it is respectfully requested that the subject application be passed to issue at the earliest possible time. The Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

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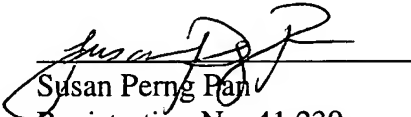
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